

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CARLOS SOMUANO	)	
	)	
Plaintiff,	)	
v.	)	Civil Action No.3:11-42J
	)	
	)	Judge Kim R. Gibson/
GEO GROUP, INC.,	)	Magistrate Judge Cynthia Reed Eddy
CAMERON LINDSAY	)	
	)	
Defendants	)	

**ORDER**

AND NOW, this 24th day of January 2012, the Plaintiff having been granted in forma pauperis status, the Complaint in this action [ECF No. 3] was filed on February 14, 2011. On January 5, 2012, the Magistrate Judge filed a Report and Recommendation [ECF No. 25] recommending that Defendants' Motion to Dismiss the Complaint [ECF No. 15] be granted with prejudice in its entirety. The Magistrate Judge concluded first that claims brought pursuant to 42 U.S.C. § 1983 were not viable because Plaintiff failed to establish that any Defendant was a state actor. In addition, Plaintiff was unable to establish the violation of any constitutional right, and failed to exhaust administrative remedies. It was recommended that the Bivens claims, too, be dismissed because, again, Plaintiff did not adequately allege transgression of a constitutional right, did not exhaust administrative remedies, and did not convince the Court that Bivens applied to a private corporation running a prison or to its employees.<sup>1</sup>

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<sup>1</sup>This issue has now been resolved by the Supreme Court. See Minneeci v. Pollard, -- U.S.--, 2012 WL 43511 (Jan. 10, 2012) (holding that Bivens does not apply to private corporations or to their employees where, as here, Plaintiff has an adequate alternative remedy).

As a result of the recommendation regarding dismissal of the Complaint, the Magistrate Judge also recommended that Plaintiff's Motion to Join other inmates as plaintiffs [ECF No. 7] be dismissed as moot. Objections were filed by Plaintiff on January 23, 2012. [ECF No. 27]. These have been reviewed and do not raise any meritorious challenge to the Report and Recommendation.

Upon independent review of the record, including Objections filed by Plaintiff, and upon consideration of the Magistrate Judge's Report and Recommendation [ECF No. 25], which is adopted as the opinion of this Court, IT IS HEREBY ORDERED that the Defendants' Motion to Dismiss the Amended Complaint [ECF No. 15] is GRANTED with prejudice. It is further ORDERED that Plaintiff's Motion to Join other inmates [ECF No. 7] be dismissed as moot.

The Clerk is directed to mark this case closed.

A handwritten signature in black ink, appearing to read "Kim R. Gibson". The signature is fluid and cursive, with a large initial "K" and "G".

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Kim R. Gibson  
United States District Judge

cc: Counsel of Record via CM-ECF

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